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TEXAS YOUTH COMMISSION

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June 24, 1991

RQ 106

Attorney General Dan Morales
Attorney General's Office
P.O. Box 12548 - Capitol Station
Austin, Texas 78701-2548

Re: Request for Opinion
Supervision of Youth under
Interstate Compact on Juveniles

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Opinion Committee

Dear Attorney General Morales:

I have been designated the Compact Administrator in the State of Texas for the Interstate Compact on Juveniles (ICJ), V.T.C.A., Family Code, §§25.01 et seq. The purpose of this compact is to establish uniform procedures for returning juvenile runaways and absconders to their homes and to provide appropriate supervision for juvenile delinquents on probation or parole who reside outside the state where they were adjudicated. A problem has recently arisen in connection with the latter of these functions. Some local juvenile probation offices have questioned whether they are legally authorized or obligated to supervise youth from other states who are beyond the age of juvenile jurisdiction in Texas or have been adjudicated for offenses which would not constitute delinquent conduct under Texas laws.

Title 3 of the Texas Family Code provides that persons eighteen years of age or older cannot be adjudicated as juveniles [§§52.02(1) and 51.04(a)] and all juvenile court dispositions, except a commitment to the Texas Youth Commission, automatically terminate at the age of eighteen [§54.05(b)]. Other states which are parties to the ICJ have higher age limits for juvenile jurisdiction. See, e.g., N.Mex.Stat.Ann. 1978, §32-1-9A (juvenile court has jurisdiction for any acts committed prior to the 18th birthday, irrespective of age); Cal.Welf.Inst.Code, §607 (jurisdiction of juvenile court may

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continue until the 25th birthday); Fla.Stat.Ann., §39.11 (supervision of juvenile court may continue until 19th birthday). The ICJ provides that:

"delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of any agency or institution pursuant to an order of such court.

V.T.C.A., Family Code, §25.02, Art. III.

It has been my understanding that by becoming a party to the ICJ and accepting its terms, a state essentially agrees that its juvenile parole or probation officers will act as agents for other states in providing supervision to youth who are properly referred under the ICJ even if those youth would not be subject to juvenile jurisdiction under local law. This appears to be the specific, and only, purpose of the above-cited section of the ICJ defining "juvenile delinquent" in terms of the law where the youth was adjudicated. However, as evidenced by the attached copies of correspondence with the El Paso County Juvenile Probation Department, this is not a universally-accepted interpretation.

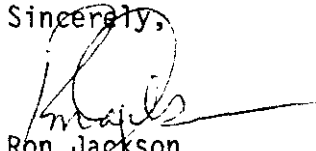
The El Paso County Juvenile Probation Department has declined to provide supervision of certain youth referred through the ICJ both because of the offense committed by the youth and because of the age of the youth. Their explanation for declining to accept these referrals has been that such supervision would be beyond the scope of their statutory authority. It is, apparently, the position of the El Paso County Juvenile Probation Department that their supervisory authority is strictly limited to those cases which fall within the ambit of juvenile jurisdiction as defined by Title 3 of the Family Code. While this is not an unreasonable position, it fails to accommodate the legislative mandate for interstate cooperation which is reflected by the acceptance and codification of the ICJ in Title 2 of the Family Code.

Proper administration of the compact would be greatly assisted by your opinion as to whether the adoption of the ICJ authorizes Texas juvenile probation officers to supervise delinquent juveniles over the age of seventeen or without regard to the adjudicating offense

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and, if so, whether the ICJ obligates juvenile officers to accept supervision of such persons if all the other provisions of the compact are met.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Jackson", is written over the word "Sincerely,".

Ron Jackson
Compact Administrator
Interstate Compact on Juveniles

PS/sf

cc: Dr. Bernard Licarione
Executive Director
Juvenile Probation Commission
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